



**ACERWC**  
African Committee of Experts on  
the Rights and Welfare of the Child

# **MODEL LAW ON CHILDREN AFFECTED BY ARMED CONFLICT IN AFRICA**

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## BACKGROUND

Armed conflict has a number of adverse effects on people and communities. However, in the case of children, the adverse effects of armed conflict are more severe and long-lasting. While the issue of armed conflict is serious, communities regrettably do not have access to the type of protection and assistance they need. Furthermore, children, in particular, suffer the consequences of armed conflict and do not have access to the special assistance they may need during the time of armed conflict as well as after.

Armed conflict has a psychological impact on children; in addition to this, children also lose their lives, are maimed, sexually abused, abducted, trafficked as well as displaced from their families and communities. Thus, children's civil and political and socio-economic rights are affected by armed conflict. Moreover, the aftermath of armed conflict also affects the children and their rights. Thus, children need to be assisted with a number of interventions to ensure that their rights do not continue to be violated. For example, children need assistance with tracing their families, social reintegration, different forms of rehabilitation, and trauma counselling. However, in the current status quo, these needs of children are often trivialised and one of the reasons for this is that there is rarely a legal framework which enumerates the obligations of different state stakeholders.

While some countries have promulgated some progressive legislation in order to deal with the issue of armed conflict and its consequences, the issue of grave child rights violations still persists. Thus, especially because children's rights invoke urgency in implementation in order to avoid violations which continue into adulthood, there remains a need to ensure that efforts are doubled to protect children during and after periods of armed conflicts.

In light of the issues mentioned above, the Peace and Security Council (PSC) in collaboration with the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) held an open session on 8 May 2014. The aim of the open session was to unpack the issue of children affected by armed conflict on the continent. At the end of the open session, it was clear that there had been some notable efforts made to ensure the protection of children affected by armed conflict. However, it was also noted that there is a lot yet to be done- with the implementation of existing laws being identified as one of the areas which needs to be worked on. Thus, it is in light of this that the ACERWC is

drafting this Model Law on Children in Conflict Situations in Africa.

The model law will serve as a yardstick for dealing with children in situations of conflict on the continent. It also will be an advocacy tool for legislators to have such a law in member states. Further, it will provide best practice language, and will be impeccable for ease of adoption or adaption by member states in their laws dealing with the children affected by armed conflict. Because of its supposed dynamism, it will be possible or easy for member states to transpose or transplant its contents without much effort as it describes and explains its adoption or adapting process. As such, the Model Law will assist policy makers and legislative drafters to address all the relevant areas in need of legislative reform without usurping the authority of national legislatures to determine the content, extent, style and form of their national laws.

## **PREAMBLE**

Considering that the Constitutive Act of the African Union recognizes the paramountcy of human rights and freedoms recognized and guaranteed therein, without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status,

Reaffirming the fundamental human rights of children as proclaimed in the African Charter on Human and Peoples' Rights, the Universal Declaration of Human Rights and the Convention on the Rights of the Child without discrimination on the grounds of sex, race, religion, political or other opinion, national, ethnic or social origin, property, birth, disability, or other status and the right of children to take part in all actions affecting them,

Recognizing in particular the important role of the African Charter on the Rights and Welfare of the Child, especially Article 22,

Emphasizing the inherent value of children as individual, unique, dignified, self-determined, and full-rights bearing human beings, and the vital role of children for maintaining a well-functioning democratic and just society,

Recognizing the devastating effects of armed conflict on all children,

Realizing the necessity of special care and assistance, guidance, and education for children to develop all of their inherent potential in a peaceful and conflict free environment,

Acknowledging the important role to be played by the family and the community as primarily responsible to ensure the development and well-being of children,

Taking into consideration the State's role in supporting and assisting families with this responsibility,

Highlighting the importance of international as well as inter- state co-operation to implement the provisions of this Law,

Reaffirming adherence to the provisions of the African Charter on the Rights and Welfare of the Child, in particular with a view to silence the guns, and create a peaceful Africa fit for all children;

Option 1

The Law has been adopted on ... (day) ... (month) ... (year).

Option 2

1. This Act may be cited as the [insert the name of the Act].
2. It shall extend throughout [insert name of State].
3. It shall come into force [on day, month and year] [upon publication in the Official Gazette].

## 1. OBJECTIVES OF THE LAW

The main objective of this Law is to uphold the rights of the child in the context of armed conflict. It specifically aims to –

- (a) Give effect to the African Charter on the Rights and Welfare of the Child, and other relevant international and regional treaties to which the State is a party;
- (b) Provide specific guidance to national legislators in Africa on the content and provisions of effective laws that would be binding at the national level to uphold the rights of children in the context of armed conflict;
- (c) Provide as clear definitions of terms as possible;
- (d) Underscore a human rights-based approach to addressing the challenges children face in the context of conflict;
- (e) Serve as a standard for national legislators and policy makers and promote accountability;
- (f) Make it possible to transplant its contents into national legislation by lawmakers in Africa to fully or partially domesticate its content into one or several national laws.
- (g) Foster and advance a culture of good practices in relation to the development of and implementation of laws for the protection of the rights of child in the context of conflict more broadly;
- (h) Define different acts and omissions that amount to an offence in the context of

children and armed conflict and provide clarity and direction to stakeholders in the interpretation and application of provisions to effectively address crimes against or affecting children in the context of armed conflict ;

- (i) Ensure that stakeholders, especially professionals that interact with children- such as those that provide medical, psychological, and legal assistance, rehabilitation and reintegration services - do so sensitively and with due respect for their best interests and rights under international law;
- (j) Provide for the respective obligations, and roles of State institutions and other stakeholders; and
- (k) Provide a basis for the development of policies, strategies and implementation plans on armed conflict and its consequences on children.

## 2. DEFINITIONS

For the purpose of this law

a *“child”* means every human being below the age of 18 years;

*“child soldier”* refers to persons under age 18 who:  
- take direct part in hostilities including in noncombat role as a member of governmental armed forces, militias, police, other security forces, or non-state armed groups irrespective of whether they are state-sponsored, and irrespective of whether the child was recruited or joined voluntarily;

*“Child justice system”* refers to the legislation, norms and standards, procedures, mechanisms and provisions specifically applicable to, and institutions and bodies set up to deal with, children considered as offenders;

*“Child-sensitive”* means an approach that gives primary consideration to a child’s right to protection and that considers a child’s individual needs and views;

*“Child victim or witness”* means a person under the age of 18 who is a victim of or witness to a crime, regardless of his or her role in the offence or in the prosecution of the alleged offender or groups of offenders;

*“direct part in hostilities”* means

- taking part in combat or military activities related to combat, including sabotage and serving as a decoy, a courier, or at a military checkpoint; as well as direct support functions related to combat, including transporting supplies or providing other services;

*“Guardians”* shall mean any other person having legal responsibilities for the child;

*“Hospitals or health facilities”* refers to any structure including clinics recognized by the government or known by the community as a facility where the sick and wounded are provided with medical or health care services;

*“Parents”* shall mean the natural, adoptive, or foster parents of a child;

*“School”* refers to any structure or space, with or without marked visible boundaries, which is either recognized by the government or known by the community as a learning space for children;

“Restorative justice” means any process in which the victim, the offender and/or any other individual or community member affected by a crime actively participates together in the resolution of matters arising from the crime, often with the help of a fair and impartial third party.

### 3. MAIN PRINCIPLES INFORMING THE LAW

This Law shall be interpreted and implemented in accordance with the following principles:

**1. Non-discrimination:** All children involved in or affected by armed conflict are entitled to the enjoyment of their rights, regardless of the children’s or their parents’, legal guardians’ or family members’ age, gender, gender identity or sexual orientation, ethnic or national origin, disability, religion, economic status, race, colour, marital or family status, health status or other social conditions, activities, expressed opinions, or beliefs. The principle of non-discrimination shall be at the centre of all security as well as counter-terrorism related policies and procedures, including training, peace-keeping operations, border control, etc.

**2. Best interests:** The best interest of the child should be the primary consideration in all aspects of actions in the context of armed conflict. Ensuring the best interests of the child requires authorities and other stakeholders to consider, among others, the child’s particular circumstances including the age, level of maturity, presence or absence of parents, and the child’s environment or experiences. Decisions must be based on the short and long term interests of the child. The determination of the best interests of the child often requires the participation of the child concerned.

**3. Right to life, survival and development:** The protection of the child’s life shall be the primary obligation for any person, institution, or other body dealing with children. The child’s right to survival and development, meaning

the physical, mental, emotional, and social development and well-being of a child shall be protected to the maximum extent possible.

**4. Child participation:** Adequate measures to guarantee the right to be heard should be implemented in the context of children and armed conflict. For that reason, it is critical to implement fully their right to express their views on all aspects affecting their lives, including as an integral part of measures such as protection; access to justice; family reunification; disarmament, demobilisation and reintegration; immigration and asylum proceedings; and for their views to be given due weight.

**5. Non-refoulement:** The principle of non-refoulement prohibits States from removing individuals, regardless of migration, nationality, asylum or other status, from their jurisdiction when they would be at risk of irreparable harm upon return, including persecution, torture, gross violations of human rights or other irreparable harm. In particular, while Article 1F of the Refugee Convention deals with persons undeserving of the benefits of refugee status and provides in part that it “shall not apply to any person with respect to whom there are serious reasons for considering that: (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes” the application of this provision to child soldiers should comply with the best interests of the child principle.

## 4. PRELIMINARY PROVISIONS

### Article 1: Legal status of relevant international law

As per [insert relevant law] the provisions of the African Charter on the Rights and Welfare of the Child can be directly invoked before the courts and applied by the national authorities.

### Article 2: Application of the law

1. This [insert name of law] is applicable to all territories and persons over which the [insert name of State] exercises jurisdiction, including all parts of federal States, dependent or autonomous territories, all military forces of the State and all locations where such forces exercise effective control.

2. This Law shall apply to all situations of armed conflict, tension and strife irrespective of their causes of the parties involved.

### **Article 3: Data collection**

- 1 The [insert name of authority] shall collect disaggregated data, to the extent possible, by age, sex, nationality, region, status as students, and level of schooling, if relevant, and any other criteria that the State considers relevant with a view to provide a more accurate understanding of the progress made and challenges faced, and propose interventions.
- 2 The disaggregated data collected, should, among others, and as relevant, include the number and gender of children recruited into national armed forces and/or non-state armed groups as well as the location where the recruitment occurred; the number and gender of children incorporated in demobilization and reintegration programmes; the number and gender of victims of sexual violence in the context of conflict; the number and gender of children that have been charged for offences in the context of conflict; the number and gender of child victims of practices prohibited by the [insert name of law] among refugee and asylum-seeking children within the jurisdiction of the State; the name and location of any attacked school or hospital, and the number of children affected by any resulting interruption to education or health activities, and the duration of such interruption; and the name and location of any school or hospital occupied or used for any other military purpose, and the number of children affected by any resulting interruption to education or health activities, and the duration of such interruption.

### **Article 4: Resource allocation**

The State shall, within its available resources, allocate the necessary human and financial support to ensure the proper, effective, and adequate implementation of this Law.



## 5. PROTECTION

### Article 5: General

- 1 The State shall take legislative, administrative, and other appropriate measures with a view to protect the rights of children in the context of armed conflict.
- 2 Where armed conflict occurs, respect for and protection and care of children shall be maintained in accordance with the law.

### Article 6: Obligation to protect children's rights during an armed conflict

1. States shall take all necessary measures to ensure that children in areas affected by armed conflict continue to enjoy the rights guaranteed in domestic and international law.
2. Such measures may include, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for their safety and well-being; and prioritise children's issues in peace program of the State and include children's concerns, especially the effects of armed conflicts, in peace negotiations.
3. An armed conflict shall not be justifiable reason for States to renege on their obligations to promote, protect, respect, and fulfil children's rights.

### Article 7: Proportionality and distinction

1. In accordance with the State's obligations under international humanitarian law to protect the civilian population in armed conflicts, the States and its competent authorities shall take all necessary measures to ensure protection and care of children who are affected by an armed conflict.
2. The State and its competent authorities shall ensure that the principles of 'distinction,' and 'proportionality,' apply specifically to children. Children shall not subject to direct attacks, and all steps should be taken to ensure the minimum possible casualties of children as a result of armed conflict.

## **Article 8: Children in vulnerable situations**

1. The State shall take special measures to protect children who are especially vulnerable, and ensure they are not adversely affected by armed conflict. These may include but are not limited to girls, children with disabilities, children from indigenous communities, migrant children, and children from minority ethnic groups.

2. A holistic approach to support and reintegration programmes for all children is important. However, special measures of protection, including the provision of psychosocial support and reintegration services should be targeted at children with disabilities, and those in other vulnerable situations. This should be done to enhance inclusivity and visibility of children in vulnerable situations, who are equally traumatised by and vulnerable to the effects of armed conflict.

## **Article 9: Age determination**

1. Age determination shall be done on the basis of birth certificates.
2. A child who does not have a birth certificate should be provided with one promptly and free of charge by the State, whenever it is required to prove age.
3. If there is no proof of age by birth certificate, the [insert name of authority] should accept all documentation that can prove age, such as notification of birth, extracts from birth registries, medical age estimation, baptismal or equivalent documents or school reports.
4. Documents should be considered genuine unless there is proof to the contrary. Authorities should allow for interviews with or testimony by parents regarding age, or for permitting affirmations to be filed by teachers or religious or community leaders who know the age of the child.
5. The [insert name of Law] considers young persons whose ages are unknown to be “children” for the sole purpose of its engagement with them, unless there is a reasonable basis to believe otherwise.

**Article 10: No exceptions**

Any legal provision enabling the age of recruitment to be lowered in exceptional circumstances such as in the time of state of emergency shall not be allowed.

## **6. PROHIBITION AND CRIMINALISATION**

**Article 11: Prohibited Acts**

It shall be unlawful for any person to commit, or aid, abet, or conspire in the commission of, the following acts:

- (a) Recruitment or use of children in hostilities;
- (b) Killing of children, which refers to acts of all kinds in the context of armed conflict that result in the death of one or more children as a result of direct targeting and indirect actions such as cross fires, use of land mines and improvised explosive devices, cluster munitions, biological weapons of destruction, or house demolitions, suicide attacks, and including murder, homicide and such other similar crimes as defined in the [insert the law / penal code that is relevant] is prohibited;
- (c) The maiming of children, which covers intentional maiming where they are directly targeted as well as casual maiming which result from indirect actions such as cross fires, use of land mines and improvised explosive devices, cluster munitions, biological weapons of destruction, or house demolitions, suicide attacks, refers to acts of all kinds in the context of armed conflict that result in serious or permanent or disabling injury, scarring or defacing, or mutilation of children is prohibited;
- (d) Using children as human shields;
- (e) The seizure, apprehension, taking in custody, detention or capture of one or more children either temporarily or permanently by force, threat of force or coercion or deception for the purpose of any form of exploitation of such child or children in situations of armed conflict;

All forms of Violence Against Children (VAC) including bullying, maltreatment, emotional or psychological

- (f) All forms of Violence against Children including maltreatment, neglect, negligent treatment and exploitation, bullying, sexual, emotional or psychological abuse/ violence. This also includes Gender-based violence against children such as rape and trafficking in children in the context of sexual slavery in armed conflict;
- (g) Intentionally directing attacks on schools, hospitals or health facilities, places of worship, child development or day care centres, evacuation centres and other public places such as recreation parks, playgrounds and malls [provided they are not military objectives]; the occupation, or any other use for military purposes, of schools or other education facilities; shelling or targeting for propaganda of schools, hospitals or places of worship [provided they are not military objectives]; causing damage to such places or harm or injury to their personnel; or causing the total or partial physical destruction of such facilities; or disruption of educational activities and health services; or attacks of such places which have been temporarily abandoned by the community as a result of armed conflicts;
- (h) The voluntary and intentional act of referring to, calling, defining, reporting or any other communication that incorrectly and falsely brands children or labels children as children involved in armed conflicts;
- (i) The arbitrary arrest, detention or prosecution of children allegedly associated with armed groups or armed forces;
- (j) The denial of humanitarian assistance, which refers to the any action that obstructs any aid that seeks to save lives and alleviate suffering of a crisis affected population and being provided on the basis of the basic humanitarian principles of humanity, impartiality, independence and neutrality;
- (k) Food blockade, which refers to an armed conflict tactic of forcibly cutting of entry of food supplies in a particular area where children can be found.

## **Article 12: Penalties**

1. Any person found guilty of committing any of the acts enumerated in sub-paragraphs [insert the ones that are considered to be grave violations] shall receive the penalty

of imprisonment not less than [insert as relevant] but not more than [insert as relevant] years and a fine of not less than [insert as relevant] but not more than [insert as relevant].

2. Any person found guilty of committing any of the acts enumerated in sub-paragraphs [insert the ones that are considered to be less than grave violations] shall receive the penalty of imprisonment not less than [insert as relevant] but not more than [insert as relevant] years and a fine of not less than [insert as relevant] but not more than [insert as relevant].
3. Where the crimes committed under [insert the relevant paragraphs] resulted in the killing, torture, maiming or rape of children as enumerated in [insert the relevant paragraphs] the penalty imposed can be a combination of imprisonment and fine.

**Article 13: Statute of limitations**

1. In principle, no statute of limitations in respect of these offences shall be applicable.
2. In the exceptional circumstances where domestic legislation allows for the application of statute of limitations, such period shall begin to run only when the child victim reaches the age of 18.

**Article 14: Individual criminal responsibility**

1. A person who planned, instigated, ordered, committed, financed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in [insert the sections of the Law or name of relevant law] shall be individually responsible for the crime.
2. The official position of any accused persons, whether as Head of State or Government or as a responsible government official, shall not relieve such person of criminal responsibility nor mitigate punishment for the offences listed [insert the reference to the relevant provisions]
3. Ignorance regarding the age of the child shall be excluded as a defence.
4. The fact that any of the acts referred to in [insert the provisions of this Law] was committed by a subordinate does not relieve his or her superior

of criminal responsibility if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior had failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

5. The fact that an accused person acted pursuant to an order of a Government or of a superior shall not relieve him or her of criminal responsibility, but may be considered in mitigation of punishment if the court [can insert name/level of the court] determines that justice so requires.
6. In determining the terms of imprisonment, and imposing the sentences, the court should take into account such factors as the gravity of the offence [insert any other relevant factors based on domestic law] and the individual circumstances of the convicted person.
7. In addition to imprisonment, the court may order the forfeiture of the property, proceeds and any assets acquired unlawfully or by criminal conduct, and their return to their rightful owner or to the State.

#### **Article 15: Amnesty, pardon, or commutation of sentences**

1. An amnesty granted to any person falling within the jurisdiction of the State in respect of the crimes referred to in [insert relevant part of the Law] shall not be a bar to prosecution, especially if prosecution is considered to uphold the best interests of child victims.
2. Pursuant to [insert the applicable law of the State] in which the convicted person is imprisoned, he or she is eligible for pardon or commutation of sentence, if the convicted person has served [indicate the amount of time ] and it is considered not to be against the best interests of the child/ children against whom the convicted person committed the offences listed in [insert the section of the relevant Law] and is further not against the interests of justice and the general principles of law.

#### **Article 16: Individual criminal responsibility of a child**

1. In the instances the offences or part thereof listed in [insert relevant part of the Law] is allegedly committed by a person below the age of 18 years

of age, the child shall benefit from a child justice system as outlined in section [list section of the Law or the Law dealing with child justice]

**Article 17: Duty to report offences**

1. Army personnel, immigration officers, law enforcement officials, teachers, doctors, social workers and other professional categories, as deemed appropriate, shall have a duty to notify [insert the name of competent authority] if they have reasonable cause to suspect that a child is a victim or is about to be a victim of any of the offences listed in this Law.
2. The persons referred to in paragraph 1 of this article shall assist the child to the best of their abilities until the child is provided with appropriate [professional] assistance.
3. The duty to report established in paragraph 1 of this article supersedes any obligation of confidentiality.

## **7. PREVENTION**

**Article 18: Preventive measures**

1. The State shall take all necessary measures to prevent the violation of the rights of the child in the context of armed conflict. In this regard it shall take all necessary measures to ensure the effective implementation and enforcement of this Law.
2. Establish a comprehensive, effective and efficient system for monitoring and reporting and response for violations as provided in Section [insert the relevant part] of this Law.
3. With a view to prevent children from suffering from the effect of armed conflict, the [insert the name of the armed forces] shall prevent attacks on civilian objects protected under international humanitarian law and other international instruments, including places that generally have a significant presence of children, such as schools and hospitals.

4. The [insert name of State or a specific national authority within the state] shall undertake measures, such as campaigns to promote public awareness of the principles and provisions of this [insert name of Law] as well as the provisions of the African Charter on the Rights and Welfare of the Child. Such measures shall include:
  - (a) programmes that identify children who are especially vulnerable to practices contrary to the [insert name of Law] due to their economic and social status, such as children living in poverty, those living in remote areas and, if applicable, refugee, internally displaced, minority and indigenous children.
  - (b) peace education in the school curricula;
  - (c) programmes aimed at the armed forces and members of international peacekeeping forces, law enforcement and immigration officers, judges, social workers, teachers and legislators; and
  - (d) include programmes aimed at [insert any specific groups] other than children
- 5 Such measures shall specifically be aimed at making children and families aware of the harmful consequences of involvement in armed conflict, and of resources and sources of assistance intended to prevent children from falling victim to recruitment;
- 6 The development as well as implementation of any measures including campaigns should be participatory and solicit inputs from non-governmental organizations, the media, the private sector and the community, [insert other stakeholders as relevant], in particular children.
- 7 Such prevention measures shall be evaluated [insert how frequently] to assess their effectiveness and measure the results obtained.

### **Article 19: Training**

1. Professionals working with child victims of the offences in this Law shall undergo appropriate training.
2. Where appropriate, the [insert Authority/Office as relevant] shall develop and publish training curricula for professionals working with child victims and witnesses of crime. The training should cover relevant human rights norms especially the African Charter on the Rights and Welfare of the Child;



principles and ethical duties related to the performance of their functions; information on children's developmental stages as well as cross-cultural and age-related linguistic, ethnic, religious, social and gender issues, with particular attention to children from disadvantaged groups; and appropriate adult-child communication skills, including a child-sensitive approach.

## **8. RESCUE, REHABILITATION, CARE, AND REINTEGRATION**

### **Article 20: General**

It shall be the responsibility of the Government to provide protection, rehabilitation, care, recovery and re-integration into normal social life for any child who may become a victim of armed conflict. In this respect the State, in collaboration with other stakeholders, shall establish policies, programs, and services for the rescue, rehabilitation and reintegration of children in situations of armed conflict. Such services shall benefit from the participation of children, their families, communities and other relevant entities with a view to uphold the best interests of the child.

### **Article 21: Rescue**

1. The State shall provide for all necessary measures and mechanisms to facilitate the recovery, either voluntarily or involuntarily, of children from armed forces or armed groups. It shall provide legal and physical security to children involved in armed conflict including services such as family tracing and system of referral or response on various psychosocial services needed by victims.
2. Such rescued children shall not be used for any military purposes such as providing intelligence on the tactics of the group they were held under, or catchment areas and their rehabilitation and reintegration process should be initiated without delay.
3. The rescue and release of children shall be initiated independent of any negotiated peace agreements.

### **Article 22: Rehabilitation**

The [insert name of competent authorities] of the State shall facilitate the normal development

of child victims in their post-involvement phase and provide services including therapeutic counseling, security and protection, educational assistance and livelihood opportunities to their parents/guardians, or to the victims when they turn 18 years of age.

### **Article 23: Reintegration**

The [insert name of competent authorities] of the State shall undertake services such as family tracing and reunification and bring children back to their communities wherever possible and in the best interests of the child. Services such as provision of alternative care, training aimed to enhance community readiness in the reintegration of children, healing and reconciliation of children involved in armed conflict with their communities shall be provided as appropriate, in collaboration and recognition of the traditional structures and institutions of their communities.

### **Article 24: Counseling, reporting and complaints**

1. The child victim has the right to easily accessible, child- and gender-sensitive and confidential psychosocial counselling and reporting mechanisms to be provided by [insert the various bodies/organs]
2. Such mechanisms should make it possible to receive reports online and through telephone helplines and other points of contact, as well as child protection, law enforcement and judicial systems [insert relevant stakeholders as appropriate].
3. Apart from the judicial system, the [insert as appropriate- such as the national human rights institution or ombudsperson] have the mandate to receive, investigate and address complaints by children in a child- and gender-sensitive manner, ensure the privacy and protection of victims and undertake monitoring, follow-up and verification activities for child victims
4. Access to such mechanisms and services shall not be dependent on a child victim or his or her parents/guardian willingness to participate in any proceedings related to the offence

### **Article 25: Child victims**

1. Child victims' right to information and right to be heard in an age-appropriate

and gender-sensitive way, regardless of their legal capacity shall be ensured.

2. Child victims should receive all the information necessary, in a language that they can understand, to help them make an informed decision about exercising their various rights, access to services, access to justice, filing a criminal complaint against the alleged perpetrator, their expected role in the criminal process, and the risk and benefits of participation.
3. Such information should, as appropriate, be made available to child victims' parents, guardians or legal representatives.
4. The [insert the name of relevant parts] Law should allow for the possibility of the prosecution starting an investigation without the child victim's complaint.

## **9. CHILD JUSTICE**

**Article 26: Child justice** [supplementary provisions to be used as relevant]

1. The relevant provisions of [insert the name of the law and its provisions that are relevant for child justice] shall be applicable to children that are accused, suspected, charged with the offenses under [insert section of the Law]
2. The child has the benefit of the doubt and is guilty only if the charges have been proved beyond reasonable doubt.
3. No child shall be held guilty of any criminal offence that did not constitute a criminal offence, under national or international law, at the time it was committed.
4. No child should be punished with a heavier penalty than the one applicable at the time of the offence, but if a change of law after the offence provides for a lighter penalty, the child should benefit.
5. The minimum age for criminal responsibility shall be [insert the minimum age for criminal responsibility] and should not be lowered irrespective of the seriousness of the offence a child is accused to have committed.
6. If the [insert name of States] decides to expand its criminal law provisions to prevent and combat terrorism, it should ensure that those changes do not result in

the retroactive or unintended punishment of children.

7. The child has the right to remain silent and no adverse inference should be drawn when children elect not to make statements.
8. The right of a child to have his or her privacy fully respected during all stages of the proceedings shall be upheld.
9. Every child has the right to be informed promptly and directly (or where appropriate through his or her parent or guardian) of the charges brought against him or her.
10. The child has the right to be heard directly, and not only through a representative, at all stages of the process, starting from the moment of contact.
11. Given the gravity of the offences [insert the sections where the offences appear], the authorities [insert, if relevant, name of authorities] should ensure that the child is guaranteed legal or other appropriate assistance from the outset of the proceedings, in the preparation and presentation of the defence, and until all appeals and/or reviews are exhausted.
12. The child has the right to have any finding of guilt or the measures imposed reviewed by a higher competent, independent and impartial authority or judicial body [possible to insert the relevant bodies/court structures].
13. Diversion options should be offered from the earliest point of contact, before a trial commences, and be available throughout the proceedings.
14. The death penalty for an offence related to armed conflict shall not be imposed or executed on a person who was a child at the time of the commission of the offence.
15. Any death penalty imposed on a person who was below the age of 18 at the time of the commission of the offence should be commuted to a sanction that is in full conformity with [insert relevant law].
16. No child who was below the age of 18 at the time he or she committed an offence should be sentenced to life imprisonment without the possibility of release or parole.

## 10. FINAL PROVISIONS

### **Article 27: Compliance with this Law**

All relevant laws, decrees, military codes, manuals or regulations adopted by the national, state or regional legislatures or other competent bodies [insert as relevant the competent bodies] of the State in order to give effect to Article 22 and other relevant provisions of the African Charter on the Rights and Welfare of the Child should be in compliance with the provisions of the Law.

### **Article 28: Interpretation**

Nothing in this Law shall be construed as precluding provisions in existing international or national law that are more conducive to the realisation of the rights of children.

### **Article 29: Implementing rules, regulations, protocols**

The State, in consultation with the various stakeholders, shall develop and promulgate the implementing rules, regulations and protocols of this Law within [insert the period by when it is to be promulgated]

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